

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE  
November 21, 2000**

IN RE: COMPLAINT BY AT&T REGARDING THE PROVISIONS OF CALLING NAME  
DELIVERY BY BELL SOUTH TELECOMMUNICATIONS, INC.  
Docket No. 00-00971

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**BRIEF OF XO TENNESSEE, INC. ON THRESHOLD ISSUES**

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XO Tennessee, Inc. ("XO") submits the following brief on the two questions posed by the Hearing Officer:

1. Is BellSouth legally obligated to provide CLECs with the elements necessary to deliver caller name service?
2. Is BellSouth legally obligated to provide CLECs with ten-digit global title translations?

As an initial matter, XO respectfully suggests that these two questions do not fully address the issues before the agency. These questions focus on whether BellSouth Telecommunications, Inc. ("BellSouth") is obligated under *existing* state and federal law to deliver CNAM on ported numbers. The questions do not address what action the Tennessee Regulatory Authority ("TRA") may take in this docket *as a matter of regulatory policy* in order to promote competition and curb discriminatory practices. XO firmly believes, as argued below, that BellSouth is required under current law to provide the necessary system upgrades to deliver CNAM on ported numbers. Nevertheless, should the Hearing Officer decide that current law is ambiguous, the TRA must still consider whether the agency should impose such a requirement as a matter of policy.

The brief on threshold issues filed in this case by AT&T describes the TRA's power and obligation under state law to order BellSouth to provide "non-discriminatory" "features, functions,

and services.” See. T.C.A. § 65-4-124(a). XO supports and adopts AT&T’s brief on those state law issues.

This brief, on the other hand, will address BellSouth’s obligations under the federal Telecommunications Act and the FCC’s rules to deliver CNAM on ported numbers.

## **I. Background**

When a customer who subscribes to caller ID with CNAM receives a call, the carrier delivering the call must query or “dip” a database that contains the CNAM information of the calling party. Incumbent local exchange carriers (“ILECs”) have traditionally determined which CNAM database to query based on the NPA-NXX of the calling party’s number. This approach assumed that the CNAM information associated with any number from an NXX assigned to an ILEC switch in the local exchange routing guide (“LERG”) would be in the relevant ILEC CNAM database.

With the introduction of number portability, however, a number from an NXX originally assigned to an ILEC (an “ILEC number”) can be ported to a competitive local exchange carrier (“CLEC”). When this occurs, the ILEC generally deletes from its CNAM database the CNAM information associated with the particular telephone number because it no longer has a customer relationship with the end user. Once this has occurred, the ILEC must acquire the ability to perform ten digit global title translations so that it can determine which carrier serves a calling party using a telephone number within one of the ILEC’s NXXs and so that it can then query the appropriate carrier’s CNAM database. The same is true in situations where a customer has a number ported from one CLEC to another; the ILEC must determine which carrier serves the calling party so that the appropriate carrier’s CNAM database can be queried. Absent this capability, where the customer using a ported number calls an ILEC customer, the ILEC continues to automatically query its own

CNAM database, finds no CNAM associated with the calling party, and then delivers no CNAM information to the called party. Of course, where an ILEC customer calls another ILEC customer, the CNAM information is still delivered.

Since the introduction of number portability in this region, BellSouth has failed to upgrade its network to support ten digit global title translations. As a result, when a CLEC customer using a ported BellSouth number calls a BellSouth customer, the CLEC customer's CNAM information does not appear on the BellSouth customer's caller ID unit. However, when a BellSouth customer with a BellSouth number calls the same number called by the CLEC customer, the BellSouth customer's CNAM information appears on the called party's caller ID unit. Because BellSouth customers, who typically have BellSouth numbers, are not similarly affected, CLEC customers reasonably but inaccurately attribute the problem to the fact that they subscribe to a CLEC's service. This can be an especially grave problem for businesses such as emergency personnel, government agencies, charitable organizations, and established community and business organizations that value highly the delivery of their names to called parties.

CLECs in the BellSouth region have repeatedly urged BellSouth to implement ten digit global title translations in its network to prevent degraded service for ported numbers. BellSouth has repeatedly assured XO and Time Warner Telecom that the upgrade would be completed shortly, yet each time it was not. BellSouth originally told XO that the upgrade would be completed during the second quarter of 2000. When it failed to meet this deadline, BellSouth reassured XO that the upgrade should occur in the third quarter of 2000. Having again failed to meet its own deadline, BellSouth promised XO and Time Warner Telecom that the upgrade would occur during the first quarter of 2001, only to later extend that deadline to the second quarter of 2001. Finally, on September 27, 2000, BellSouth tentatively agreed to establish a timeline with "estimated completion

dates” for implementing ten digit global title translations. Unfortunately, even the estimated completion dates will result in unnecessary and unreasonable delay. This is because, once it has completed the testing phase of the work in the end of January 2001, BellSouth has agreed only to perform actual translations for NPAs in batches and on a consecutive basis. For example, BellSouth has said that it will complete the work for the first six NPAs by April 6, 2001, for the next four NPAs by May 4, 2001 and so on until the work for all the NPAs will finally be finished on November 23, 2001 (unless that deadline slips). But once BellSouth has completed the testing phase of its work, there is no technical reason why the work on all of the NPAs could not be completed at the same time, in April 2001. BellSouth simply does not want to allocate the resources to finish the work in this timeframe. Especially given how long it has already put off performing the necessary work to support CNAM, BellSouth’s proposed implementation schedule would result in an unreasonable and unnecessary continuation of its failure to comply with its legal obligations.

**II. BellSouth’s Failure To Timely Implement Number Portability System Upgrades Has Resulted In The Degradation of Service Quality For Consumers Using or Receiving Calls From Ported Numbers, In Violation Of The Federal Telecommunications Act And The FCC’s Rules.**

Section 251(b)(2) of the federal Telecommunications Act requires all local exchange carriers (“LECs”) “to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.” 47 U.S.C. § 251(b)(2). The Act in turn defines “number portability” as “the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.” Id. § 153(30).

The FCC has incorporated this definition into its rules, which set forth performance criteria that LECs must meet with regard to number portability. 47 C.F.R. § 52.23(a). Of particular relevance here, the FCC's rules specifically require BellSouth to provide number portability that supports network services, features, and capabilities existing at the time number portability is implemented, *including CLASS features such as caller ID*. *Id.* § 52.23(a)(1). As the FCC has recognized, CNAM is necessary to provide caller ID and other related telecommunications services, and is, in any event, a CLASS feature. Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 15 FCC Rcd 3696, ¶¶ 406, 416 (1999). BellSouth also must provide number portability that “*does not result in any degradation in service quality or network reliability when customers switch carriers.*” 47 C.F.R. § 52.23(a)(5) (emphasis added). Absent compliance with such requirements, the FCC has concluded that competitive LECs will be at a competitive disadvantage because customers will not want to switch carriers “if they are required to forego services and features to which they have become accustomed.” Telephone Number Portability, 11 FCC Rcd 8352, ¶ 49 (1996) (“Number Portability Order”).<sup>1</sup>

As described above, BellSouth has failed to meet these requirements and has repeatedly failed to cure the deficiencies of its number portability functionalities, despite numerous promises to do so. BellSouth has long offered to implement what it has characterized as an interim solution, but this solution is discriminatory and inadequate. BellSouth's proposal would require a CLEC to modify its systems to download CNAM information for its customers using ported BellSouth numbers into BellSouth's CNAM database, thereby (1) freeing BellSouth

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The FCC has previously concluded that the provision of caller ID is in the public interest “because national availability of caller ID enables a multitude of services, efficiency gains, and additional choices for consumers.” See Number Portability Order ¶ 49 n. 146 (citations omitted).

from the cost of dipping the appropriate database for the CNAM information (a cost that a CLEC that performs ten digit global title translations incurs when a BellSouth customer calls one of the CLEC's customers), and (2) requiring CLECs to incur the cost of downloading the CNAM information into the BellSouth database (again, a cost that BellSouth would not incur for CLECs that perform ten digit global title translations). In addition to being too costly and discriminatory to be viable, BellSouth's proposal does not remedy the problem with regard to numbers ported from carriers other than BellSouth. Under the interim proposal, when a CLEC customer with a number ported from another CLEC calls a BellSouth customer, the BellSouth switch would dip the CNAM database of the CLEC to whom the calling party's number was originally assigned. That CLEC's database would no longer contain CNAM information for the calling party. Thus, in this instance, the CNAM information would not appear on the called party's caller ID unit even if the BellSouth interim proposal is implemented. *In short, the interim solution does not, and cannot, address the problem of BellSouth failing to deliver calling name for ported CLEC numbers.*


As mentioned, BellSouth may finally have seriously committed to implementing the global title translations to support CNAM. But given its consistent pattern of failing to meet previous commitments and the qualified nature of even its most recent commitment, XO has little basis for believing that BellSouth will keep to even the timetable it has suggested. BellSouth must therefore be ordered to upgrade its number portability capability so that it complies with all the FCC's performance criteria, including nondiscriminatory service quality for CLEC customers, and so that it supports CLASS features such as CNAM/caller ID. In particular BellSouth should be ordered to keep to a specific timetable for testing and implementation, and


the implementation must be performed for all NPAs at the same time, rather than in sequential order.

### III. Conclusion

Under existing law, BellSouth is legally required to provide number portability "that does not result in any degradation in service quality . . . when customers switch carriers." 47 C.F.R. § 52.23(a)(5). Based on the undisputed allegations in AT&T's complaint, BellSouth's failure to deliver CNAM on ported numbers obviously violates that requirement. The only apparent way to resolve this problem is through ten-digit global title translations. Therefore, XO asks that the TRA issue an order finding that BellSouth's present operations are inconsistent with federal law and that BellSouth must furnish ten-digit global title translations by April, 2001.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing has been served on the following this the 21<sup>st</sup> day of November, 2000.

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